

1 A bill to be entitled

2 An act relating to motor vehicles; amending s. 207.008,
3 F.S.; revising requirements for motor carrier to retain
4 certain records as required by the Department of Highway
5 Safety and Motor Vehicles for tax purposes; amending s.
6 207.021, F.S.; providing for informal conferences to
7 resolve disputes arising from the assessment of taxes,
8 penalties, or interest, or the denial of refunds;
9 providing rulemaking authority; providing for settlement
10 of taxpayer liability; amending s. 320.405, F.S.;
11 providing for authorization for certain agreements related
12 to International Registration Plan; amending s. 322.01,
13 F.S.; revising the definition of "driver's license";
14 defining "identification card" and "temporary driver
15 license" or "temporary identification card"; amending s.
16 322.08, F.S.; revising criteria related to proof of
17 identity and status of applicant for a driver's license;
18 providing for electronic verification of documents;
19 amending s. 322.051, F.S.; revising criteria related to
20 proof of identity and status of applicant for an
21 identification card; providing for electronic verification
22 of documents; amending s. 322.2615, F.S.; revising
23 provisions for suspension of driver licenses and review of
24 suspension by the department; amending s. 316.211, F.S.;
25 requiring motorcycles registered to persons who have not
26 attained 21 years of age to display a license plate that
27 is unique in design and color; amending s. 320.02, F.S.;
28 requiring proof of required endorsement on driver license
29 as a condition for original registration of a motorcycle,

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30 motor-driven cycle, or moped; amending s. 322.12, F.S.;
31 revising requirements for first-time applicant for
32 licensure to operate a motorcycle; creating s. 316.2123,
33 F.S.; providing for all terrain vehicle operations;
34 amending s.316.302, F.S.; revising an exemption from
35 commercial driver's license requirements; amending s.
36 320.27, F.S.; revising motor vehicle dealer licensing
37 requirement; amending s. 320.089, F.S.; providing for
38 "Operation Iraqi Freedom" and "Operation Enduring Freedom"
39 license plates to qualified military personnel; amending
40 s. 316.515, F.S.; revising requirements for forestry
41 equipment; amending s. 319.14, F.S.; revising definition
42 of police vehicle for purpose of selling; amending s.
43 316.221, F.S.; providing an exemption for dump trucks;
44 amending s. 320.0706, F.S.; revising display of license on
45 dump trucks; amending s. 322.121, F.S.; revising periodic
46 license examination requirements; providing an effective
47 date.

48
49 Be It Enacted by the Legislature of the State of Florida:

50
51 Section 1. Section 207.008, Florida Statutes, is amended to
52 read:

53 207.008 Retention of records by motor carrier.--Each
54 registered motor carrier shall maintain and keep pertinent
55 records and papers as may be required by the department for the
56 reasonable administration of this chapter and shall preserve the
57 records upon which each quarterly tax return is based for 4 years

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58 after the due date or filing date of the return, whichever is
59 later such records as long as required by s. 213.35.

60 Section 2. Section 207.021, Florida Statutes, is amended to
61 read:

62 207.021 Informal conferences; settlement or compromise of
63 taxes, penalties, or interest.--The department may settle or
64 compromise, pursuant to s. 213.21, penalties or interest imposed
65 under this chapter.

66 (1) (a) The department may adopt rules pursuant to ss.
67 120.536(1) and 120.54 for establishing informal conferences to
68 resolve disputes arising from the assessment of taxes, penalties,
69 or interest, or the denial of refunds.

70 (b) During any proceeding arising under this section, the
71 motor carrier has the right to be represented at and record all
72 procedures at the motor carrier's expense.

73 (2) (a) The executive director or his or her designee is
74 authorized to enter into closing agreements with any taxpayer
75 settling or compromising the taxpayer's liability for any tax,
76 interest, or penalty assessed under this chapter. Such agreements
77 shall be in writing and must be in the form of a closing
78 agreement approved by the department and signed by the executive
79 director or his or her designee. It shall be final and
80 conclusive; except upon a showing of material fraud or
81 misrepresentation of material fact. No additional assessment may
82 be made by the department against the taxpayer for the tax,
83 interest, or penalty specified in the closing agreement for the
84 time specified in the closing agreement, and the taxpayer shall
85 not be entitled to institute any judicial or administrative
86 proceeding to recover any tax, interest, or penalty paid pursuant

87 to the closing agreement. The executive director of the
88 department or his or her designee is authorized to approve any
89 such closing agreement.

90 (b) Notwithstanding the provisions of paragraph (a), for
91 the purpose of settling and compromising the liability of any
92 taxpayer for tax or interest on the grounds of doubt as to
93 liability based on the taxpayer's reasonable reliance on a
94 written determination issued by the department, the department
95 may compromise the amount of such tax or interest resulting from
96 such reasonable reliance.

97 (3) A taxpayer's liability for any tax or interest
98 specified in this chapter may be compromised by the department
99 upon the grounds of doubt as to liability for or the ability
100 collect such tax or interest. Doubt as to the liability of a
101 taxpayer for tax and interest exists if the taxpayer demonstrates
102 that he or she reasonably relied on a written determination of
103 the department.

104 (4) A taxpayer's liability for any tax or interest under
105 this chapter shall be settled or compromised in whole or in part
106 whenever or to the extent allowable under the International Fuel
107 Tax Agreement Articles of Agreement.

108 (5) A taxpayer's liability for penalties under this chapter
109 may be settled or compromised if it is determined by the
110 department that the noncompliance is due to reasonable cause and
111 not to willful negligence, willful neglect, or fraud.

112 (6) The department is authorized to enter into agreements
113 for scheduling payments of taxes, penalties, and interest due to
114 the department as a result of audit assessments issued under this
115 chapter.

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116 Section 3. Subsection (5) is added to section 320.405,
117 Florida Statutes, to read:

118 320.405 International Registration Plan; inspection of
119 records; hearings.--

120 (5) The department is authorized to enter into agreements
121 for scheduling payments of taxes and penalties due to the
122 department as a result of audit assessments issued under this
123 section.

124 Section 4. Subsection (16) of section 322.01, Florida
125 Statutes, is amended, and subsections (43) and (44) are added to
126 that section, to read:

127 322.01 Definitions.--As used in this chapter:

128 (16) "Driver's license" means a certificate which, subject
129 to all other requirements of law, authorizes an individual to
130 drive a motor vehicle, and which denotes an operator's license as
131 defined in 49 U.S.C. s. 30301.

132 (43) "Identification card" means a personal identification
133 card issued by the department and which conforms to the
134 definition in 18 U.S.C. s. 1028(D).

135 (44) "Temporary driver license" or "temporary
136 identification card" means a certificate which, subject to all
137 other requirements of law, issued by the department, and which
138 authorizes an individual to drive a motor vehicle, and which
139 denotes an operator's license as defined in 49 U.S.C. s. 30301,
140 or a personal identification card, issued by the department, and
141 which conforms to the definition in 18 U.S.C. s. 1028(D), and
142 which denotes that the holder is permitted to stay for a short
143 duration of time specified in the document so issued and is not a
144 permanent resident of the United States.

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145 Section 5. Paragraph (c) of subsection (2) of section
146 322.08, Florida Statutes, is amended to read:

147 322.08 Application for license.--

148 (2) Each such application shall include the following
149 information regarding the applicant:

150 (c) Proof of identity satisfactory to the department. Such
151 proof must include one of the following documents issued to the
152 applicant:

153 1. A driver's license record or identification card record
154 from another jurisdiction that required the applicant to submit a
155 document for identification which is substantially similar to a
156 document required under subparagraph 2., subparagraph 3.,
157 subparagraph 4., subparagraph 5., subparagraph 6., or
158 subparagraph 7.;

159 2. A certified copy of a United States birth certificate;

160 3. A United States passport;

161 4. A naturalization certificate issued by the United States
162 Department of Homeland Security;

163 5. An alien registration receipt card (green card);

164 6. An employment authorization card issued by the United
165 States Department of Homeland Security; or

166 7. Proof of nonimmigrant classification provided by the
167 United States Department of Homeland Security, for an original
168 driver's license. In order to prove nonimmigrant classification,
169 an applicant may produce the following documents, including, but
170 not limited to:

171 a. A notice of hearing from an immigration court scheduling
172 a hearing on any proceeding.

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173 b. A notice from the Board of Immigration Appeals
174 acknowledging pendency of an appeal.

175 c. A notice of the approval of an application for
176 adjustment of status issued by the United States Immigration and
177 Naturalization Service.

178 d. Any official documentation confirming the filing of a
179 petition for asylum or refugee status or any other relief issued
180 by the United States Immigration and Naturalization Service.

181 e. A notice of action transferring any pending matter from
182 another jurisdiction to this state issued by the United States
183 Immigration and Naturalization Service.

184 f. An order of an immigration judge or immigration officer
185 granting any relief that authorizes the alien to live and work in
186 the United States, including, but not limited to, asylum.

187 g. Evidence that an application is pending for adjustment of
188 status to that of an alien lawfully admitted for permanent
189 residence in the United States or conditional permanent resident
190 status in the United States, provided a visa number is available
191 with a current priority date for processing by the United States
192 Citizenship and Immigration Services.

193
194 Presentation of any of the documents in subparagraph 6. or
195 subparagraph 7. entitles the applicant to a driver's license or
196 temporary permit for a period not to exceed the expiration date
197 of the document presented or 1 year ~~2 years~~, whichever occurs
198 first.

199 Section 6. Paragraph (a) of subsection (1) of section
200 322.051, Florida Statutes, is amended to read:

201 322.051 Identification cards.--

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(1) Any person who is 5 ~~12~~ years of age or older, or any person who has a disability, regardless of age, who applies for a disabled parking permit under s. 320.0848, may be issued an identification card by the department upon completion of an application and payment of an application fee.

(a) Each such application shall include the following information regarding the applicant:

1. Full name (first, middle or maiden, and last), gender, social security card number, county of residence and mailing address, country of birth, and a brief description.

2. Proof of birth date satisfactory to the department.

3. Proof of identity satisfactory to the department. Such proof must include one of the following documents issued to the applicant:

a. A driver's license record or identification card record from another jurisdiction that required the applicant to submit a document for identification which is substantially similar to a document required under sub-subparagraph b., sub-subparagraph c., sub-subparagraph d., sub-subparagraph e., sub-subparagraph f., or sub-subparagraph g.;

b. A certified copy of a United States birth certificate;

c. A United States passport;

d. A naturalization certificate issued by the United States Department of Homeland Security;

e. An alien registration receipt card (green card);

f. An employment authorization card issued by the United States Department of Homeland Security; or

g. Proof of nonimmigrant classification provided by the United States Department of Homeland Security, for an original

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231 identification card. In order to prove such nonimmigrant
232 classification, applicants may produce but are not limited to the
233 following documents:

234 (I) A notice of hearing from an immigration court
235 scheduling a hearing on any proceeding.

236 (II) A notice from the Board of Immigration Appeals
237 acknowledging pendency of an appeal.

238 (III) Notice of the approval of an application for
239 adjustment of status issued by the United States Bureau of
240 Citizenship and Immigration Services.

241 (IV) Any official documentation confirming the filing of a
242 petition for asylum status or any other relief issued by the
243 United States Bureau of Citizenship and Immigration Services.

244 (V) Notice of action transferring any pending matter from
245 another jurisdiction to Florida, issued by the United States
246 Bureau of Citizenship and Immigration Services.

247 (VI) Order of an immigration judge or immigration officer
248 granting any relief that authorizes the alien to live and work in
249 the United States including, but not limited to asylum.

250 (VII) Evidence that an application is pending for
251 adjustment of status to that of an alien lawfully admitted for
252 permanent residence in the United States or conditional permanent
253 resident status in the United States, provided a visa number is
254 available with a current priority date for processing by the
255 United States Citizenship and Immigration Services.

256
257 Presentation of any of the documents described in sub-
258 subparagraph f. or sub-subparagraph g. entitles the applicant to
259 an identification card for a period not to exceed the expiration

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260 date of the document presented or 1 year ~~2 years~~, whichever first
261 occurs.

262 Section 7. Section 322.2615, Florida Statutes, is amended
263 to read:

264 322.2615 Suspension of license; right to review.--

265 (1)(a) A law enforcement officer or correctional officer
266 shall, on behalf of the department, suspend the driving privilege
267 of a person who is driving or in actual physical control of a
268 motor vehicle with an ~~has been arrested by a law enforcement~~
269 ~~officer for a violation of s. 316.193, relating to unlawful~~
270 blood-alcohol level or breath-alcohol level of 0.08 or higher, or
271 of a person who has refused to submit to a ~~breath, urine, or~~
272 ~~blood test, authorized by s. 316.1932.~~ or a test of his or her
273 breath-alcohol or blood-alcohol level. The officer shall take the
274 person's driver's license and issue the person a 10-day temporary
275 permit if the person is otherwise eligible for the driving
276 privilege and shall issue the person a notice of suspension. If a
277 blood test has been administered, or ~~the results of which are not~~
278 ~~available to the officer at the time of the arrest,~~ the agency
279 employing the officer shall transmit such results to the
280 department within 5 days after receipt of the results. If the
281 department then determines that the person ~~was arrested for a~~
282 ~~violation of s. 316.193 and that the person~~ had a blood-alcohol
283 level or breath-alcohol level of 0.08 or higher, the department
284 shall suspend the person's driver's license pursuant to
285 subsection (3).

286 (b) The suspension under paragraph (a) shall be pursuant
287 to, and the notice of suspension shall inform the driver of, the
288 following:

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289 1.a. The driver refused to submit to a lawful breath,
290 blood, or urine test and his or her driving privilege is
291 suspended for a period of 1 year for a first refusal or for a
292 period of 18 months if his or her driving privilege has been
293 previously suspended as a result of a refusal to submit to such a
294 test; or

295 b. The driver was driving or in actual physical control of
296 a motor vehicle ~~violated s. 316.193 by driving~~ with an unlawful
297 blood-alcohol level or breath-alcohol level of 0.08 or higher ~~as~~
298 ~~provided in that section~~ and his or her driving privilege is
299 suspended for a period of 6 months for a first offense or for a
300 period of 1 year if his or her driving privilege has been
301 previously suspended under this section ~~for a violation of s.~~
302 ~~316.193.~~

303 2. The suspension period shall commence on the date of
304 ~~arrest or~~ issuance of the notice of suspension, ~~whichever is~~
305 ~~later.~~

306 3. The driver may request a formal or informal review of
307 the suspension by the department within 10 days after the date of
308 ~~arrest or~~ issuance of the notice of suspension, ~~whichever is~~
309 ~~later.~~

310 4. The temporary permit issued at the time of arrest will
311 expire at midnight of the 10th day following the date of ~~arrest~~
312 ~~or~~ issuance of the notice of suspension, ~~whichever is later.~~

313 5. The driver may submit to the department any materials
314 relevant to the suspension ~~arrest.~~

315 (2) Except as provided in paragraph (1)(a), the law
316 enforcement officer shall forward to the department, within 5
317 days after issuing ~~the date of the arrest, a copy of~~ the notice

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318 of suspension, the driver's license ~~of the person arrested, and a~~
319 ~~report of the arrest, including~~ an affidavit stating the
320 officer's grounds for belief that the person was driving or in
321 actual physical control of a motor vehicle while under the
322 influence of alcoholic beverages, or chemical or controlled
323 substances ~~arrested was in violation of s. 316.193;~~ the results
324 of any breath or blood test or an affidavit stating that a
325 breath, blood, or urine test was requested by a law enforcement
326 officer or correctional officer and that the person ~~arrested~~
327 ~~refused to submit; a copy of the citation issued to the person~~
328 ~~arrested, and~~ the officer's description of the person's field
329 sobriety test, if any, and a copy of the crash report, if any.
330 The failure of the officer to submit materials within the 5-day
331 period specified in this subsection and in subsection (1) shall
332 not affect the department's ability to consider any evidence
333 submitted at or prior to the hearing. The officer may also submit
334 a copy of a videotape of the field sobriety test or the attempt
335 to administer such test. Materials submitted to the department by
336 a law enforcement agency or correctional agency shall be
337 considered self-authenticating and shall be in the record for
338 consideration by the hearing officer. Notwithstanding
339 s.316.066(4), the crash report shall be considered by the hearing
340 officer.

341 (3) If the department determines that the license ~~of the~~
342 ~~person arrested~~ should be suspended pursuant to this section and
343 if the notice of suspension has not already been served upon the
344 person by a law enforcement officer or correctional officer as
345 provided in subsection (1), the department shall issue a notice
346 of suspension and, unless the notice is mailed pursuant to s.

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322.251, a temporary permit which expires 10 days after the date of issuance if the driver is otherwise eligible.

(4) If the person suspended ~~arrested~~ requests an informal review pursuant to subparagraph (1)(b)3., the department shall conduct the informal review by a hearing officer employed by the department. Such informal review hearing shall consist solely of an examination by the department of the materials submitted by a law enforcement officer or correctional officer and by the person suspended ~~arrested~~, and the presence of an officer or witness is not required.

(5) After completion of the informal review, notice of the department's decision sustaining, amending, or invalidating the suspension of the driver's license of the person suspended ~~arrested~~ must be provided to such person. Such notice must be mailed to the person at the last known address shown on the department's records, or to the address provided in the law enforcement officer's report if such address differs from the address of record, within 21 days after the expiration of the temporary permit issued pursuant to subsection (1) or subsection (3).

(6)(a) If the person suspended ~~arrested~~ requests a formal review, the department must schedule a hearing to be held within 30 days after such request is received by the department and must notify the person of the date, time, and place of the hearing.

(b) Such formal review hearing shall be held before a hearing officer employed by the department, and the hearing officer shall be authorized to administer oaths, examine witnesses and take testimony, receive relevant evidence, issue subpoenas for the officers and witnesses identified in documents

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376 in subsection (2), regulate the course and conduct of the
377 hearing, question witnesses, and make a ruling on the suspension.
378 ~~The department and the person arrested may subpoena witnesses,~~
379 ~~and the~~ party requesting the presence of a witness shall be
380 responsible for the payment of any witness fees and for notifying
381 in writing the state attorney's office in the appropriate circuit
382 of the issuance of the subpoena. If the person who requests a
383 formal review hearing fails to appear and the hearing officer
384 finds such failure to be without just cause, the right to a
385 formal hearing is waived and the suspension shall be sustained.

386 (c) A party may seek enforcement of a subpoena under
387 paragraph (b) by filing a petition for enforcement in the circuit
388 court of the judicial circuit in which the person failing to
389 comply with the subpoena resides. A failure to comply with an
390 order of the court shall result in a finding of contempt of
391 court. However, a person shall not be in contempt while a
392 subpoena is being challenged.

393 (d) The department must, within 7 working days after a
394 formal review hearing, send notice to the person of the hearing
395 officer's decision as to whether sufficient cause exists to
396 sustain, amend, or invalidate the suspension.

397 (7) In a formal review hearing under subsection (6) or an
398 informal review hearing under subsection (4), the hearing officer
399 shall determine by a preponderance of the evidence whether
400 sufficient cause exists to sustain, amend, or invalidate the
401 suspension. The scope of the review shall be limited to the
402 following issues:

403 (a) If the license was suspended for driving with an
404 unlawful blood-alcohol level or breath-alcohol level of 0.08 or

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405 ~~higher in violation of s. 316.193:~~

406 1. Whether the ~~arresting~~ law enforcement officer had
407 probable cause to believe that the person suspended was driving
408 or in actual physical control of a motor vehicle in this state
409 while under the influence of alcoholic beverages or chemical or
410 controlled substances.

411 ~~2. Whether the person was placed under lawful arrest for a~~
412 ~~violation of s. 316.193.~~

413 2 ~~3~~. Whether the person suspended had an unlawful blood-
414 alcohol level or breath-alcohol level of 0.08 or higher as
415 provided in s. 316.193.

416 (b) If the license was suspended for refusal to submit to a
417 breath, blood, or urine test:

418 1. Whether the ~~arresting~~ law enforcement officer had
419 probable cause to believe that the person suspended was driving
420 or in actual physical control of a motor vehicle in this state
421 while under the influence of alcoholic beverages or chemical or
422 controlled substances.

423 ~~2. Whether the person was placed under lawful arrest for a~~
424 ~~violation of s. 316.193.~~

425 ~~2.3.~~ Whether the person suspended refused to submit to any
426 such test after being requested to do so by a law enforcement
427 officer or correctional officer.

428 ~~3.4.~~ Whether the person suspended was told that if he or
429 she refused to submit to such test his or her privilege to
430 operate a motor vehicle would be suspended for a period of 1 year
431 or, in the case of a second or subsequent refusal, for a period
432 of 18 months.

433 (8) Based on the determination of the hearing officer

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pursuant to subsection (7) for both informal hearings under subsection (4) and formal hearings under subsection (6), the department shall:

(a) Sustain the suspension of the person's driving privilege for a period of 1 year for a first refusal, or for a period of 18 months if the driving privilege of such person has been previously suspended as a result of a refusal to submit to such tests, if the ~~arrested~~ person refused to submit to a lawful breath, blood, or urine test. The suspension period commences on the date of ~~the arrest or~~ issuance of the notice of suspension, ~~whichever is later.~~

(b) Sustain the suspension of the person's driving privilege for a period of 6 months for a blood-alcohol level or breath-alcohol level of 0.08 or higher ~~a violation of s. 316.193,~~ or for a period of 1 year if the driving privilege of such person has been previously suspended under this section as a result of driving with an unlawful alcohol level ~~a violation of s. 316.193.~~ The suspension period commences on the date of ~~the arrest or~~ issuance of the notice of suspension, ~~whichever is later.~~

(9) A request for a formal review hearing or an informal review hearing shall not stay the suspension of the person's driver's license. If the department fails to schedule the formal review hearing to be held within 30 days after receipt of the request therefor, the department shall invalidate the suspension. If the scheduled hearing is continued at the department's initiative, the department shall issue a temporary driving permit which shall be valid until the hearing is conducted if the person is otherwise eligible for the driving privilege. Such permit shall not be issued to a person who sought and obtained a

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continuanance of the hearing. The permit issued under this subsection shall authorize driving for business or employment use only.

(10) A person whose driver's license is suspended under subsection (1) or subsection (3) may apply for issuance of a license for business or employment purposes only if the person is otherwise eligible for the driving privilege pursuant to s. 322.271.

(a) If the suspension of the driver's license of the person for failure to submit to a breath, urine, or blood test is sustained, the person is not eligible to receive a license for business or employment purposes only, pursuant to s. 322.271, until 90 days have elapsed after the expiration of the last temporary permit issued. If the driver is not issued a 10-day permit pursuant to this section or s. 322.64 because he or she is ineligible for the permit and the suspension for failure to submit to a breath, urine, or blood test is not invalidated by the department, the driver is not eligible to receive a business or employment license pursuant to s. 322.271 until 90 days have elapsed from the date of the suspension.

(b) If the suspension of the driver's license of the person ~~arrested for a violation of s. 316.193,~~ relating to unlawful blood-alcohol level or breath-alcohol level of 0.08 or higher, is sustained, the person is not eligible to receive a license for business or employment purposes only pursuant to s. 322.271 until 30 days have elapsed after the expiration of the last temporary permit issued. If the driver is not issued a 10-day permit pursuant to this section or s. 322.64 because he or she is ineligible for the permit and the suspension ~~for a violation of~~

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492 ~~s. 316.193~~, relating to unlawful blood-alcohol level or breath-
493 alcohol level of 0.08 or higher, is not invalidated by the
494 department, the driver is not eligible to receive a business or
495 employment license pursuant to s. 322.271 until 30 days have
496 elapsed from the date of the suspension ~~arrest~~.

497 (11) The formal review hearing may be conducted upon a
498 review of the reports of a law enforcement officer or a
499 correctional officer, including documents relating to the
500 administration of a breath test or blood test or the refusal to
501 take either test or the refusal to take a urine test. However, as
502 provided in subsection (6), the driver may subpoena the officer
503 or any person who administered or analyzed a breath or blood
504 test.

505 (12) The formal review hearing and the informal review
506 hearing are exempt from the provisions of chapter 120. The
507 department is authorized to adopt rules for the conduct of
508 reviews under this section.

509 (13) A person may appeal any decision of the department
510 sustaining a suspension of his or her driver's license by a
511 petition for writ of certiorari to the circuit court in the
512 county wherein such person resides or wherein a formal or
513 informal review was conducted pursuant to s. 322.31. However, an
514 appeal shall not stay the suspension. A law enforcement agency
515 may appeal any decision of the department invalidating a
516 suspension by a petition for writ of certiorari to the circuit
517 court in the county where a formal or informal review was
518 conducted. This subsection shall not be construed to provide for
519 a de novo appeal.

520 (14) (a) The decision of the department under this section

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521 or any circuit court review thereof may not be considered in any
522 trial for a violation of s. 316.193, and a written statement
523 submitted by a person in his or her request for departmental
524 review under this section may not be admitted into evidence
525 against him or her in any such trial.

526 (b) The disposition of any related criminal proceedings
527 does not affect a suspension for refusal to submit to a blood,
528 breath, or urine test, ~~authorized by s. 316.1932 or s. 316.1933,~~
529 imposed under this section.

530 (15) If the department suspends a person's license under s.
531 322.2616, it may not also suspend the person's license under this
532 section for the same episode that was the basis for the
533 suspension under s. 322.2616.

534 (16) The department shall invalidate a suspension for
535 driving with an unlawful blood-alcohol level or breath-alcohol
536 level imposed under this section if the suspended person is found
537 not guilty at trial of an underlying violation of s. 316.193.

538 Section 8. Effective January 1, 2007, section 316.211,
539 Florida Statutes, is amended to read:

540 316.211 Equipment for motorcycle and moped riders.--

541 (1) A person may not operate or ride upon a motorcycle
542 unless the person is properly wearing protective headgear
543 securely fastened upon his or her head which complies with
544 Federal Motorcycle Vehicle Safety Standard 218 promulgated by the
545 United States Department of Transportation. The Department of
546 Highway Safety and Motor Vehicles shall adopt this standard by
547 agency rule.

548 (2) A person may not operate a motorcycle unless the person
549 is wearing an eye-protective device over his or her eyes of a
550 type approved by the department.

551 (3)(a) This section does not apply to persons riding within
552 an enclosed cab or to any person 16 years of age or older who is
553 operating or riding upon a motorcycle powered by a motor with a
554 displacement of 50 cubic centimeters or less or is rated not in
555 excess of 2 brake horsepower and which is not capable of
556 propelling such motorcycle at a speed greater than 30 miles per
557 hour on level ground.

558 (b) Notwithstanding subsection (1), a person over 21 years
559 of age may operate or ride upon a motorcycle without wearing
560 protective headgear securely fastened upon his or her head if
561 such person is covered by an insurance policy providing for at
562 least \$10,000 in medical benefits for injuries incurred as a
563 result of a crash while operating or riding on a motorcycle.

564 (4) A person under 16 years of age may not operate or ride
565 upon a moped unless the person is properly wearing protective
566 headgear securely fastened upon his or her head which complies
567 with Federal Motorcycle Vehicle Safety Standard 218 promulgated
568 by the United States Department of Transportation.

569 (5) The department shall make available a list of
570 protective headgear approved in this section, and the list shall
571 be provided on request.

572 (6) Motorcycles registered to persons who have not attained
573 21 years of age shall display a license plate that is unique in
574 design and color.

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575 ~~(7)(6)~~ A violation of this section is a noncriminal traffic
576 infraction, punishable as a nonmoving violation as provided in
577 chapter 318.

578 Section 9. Effective January 1, 2007, subsection (1) of
579 section 320.02, Florida Statutes, is amended to read:

580 320.02 Registration required; application for registration;
581 forms.--

582 (1) Except as otherwise provided in this chapter, every
583 owner or person in charge of a motor vehicle which is operated or
584 driven on the roads of this state shall register the vehicle in
585 this state. The owner or person in charge shall apply to the
586 department or to its authorized agent for registration of each
587 such vehicle on a form prescribed by the department. Prior to an
588 original registration of any motorcycle, motor-driven cycle, or
589 moped, the owner shall present proof that he or she has obtained
590 the necessary endorsement as required in s. 322.57. No
591 registration is required for any motor vehicle which is not
592 operated on the roads of this state during the registration
593 period.

594 Section 10. Effective January 1, 2007, paragraph (a) of
595 subsection (5) of section 322.12, Florida Statutes, is amended to
596 read:

597 322.12 Examination of applicants.--

598 (5)(a) The department shall formulate a separate
599 examination for applicants for licenses to operate motorcycles.
600 Any applicant for a driver's license who wishes to operate a
601 motorcycle, and who is otherwise qualified, must successfully
602 complete such an examination, which is in addition to the
603 examination administered under subsection (3). The examination

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604 must test the applicant's knowledge of the operation of a
605 motorcycle and of any traffic laws specifically relating thereto
606 and must include an actual demonstration of his or her ability to
607 exercise ordinary and reasonable control in the operation of a
608 motorcycle. Any applicant who fails to pass the initial knowledge
609 examination will incur a \$5 fee for each subsequent examination,
610 to be deposited into the Highway Safety Operating Trust Fund. Any
611 applicant who fails to pass the initial skills examination will
612 incur a \$10 fee for each subsequent examination, to be deposited
613 into the Highway Safety Operating Trust Fund. In the formulation
614 of the examination, the department shall consider the use of the
615 Motorcycle Operator Skills Test and the Motorcycle in Traffic
616 Test offered by the Motorcycle Safety Foundation. The department
617 shall indicate on the license of any person who successfully
618 completes the examination that the licensee is authorized to
619 operate a motorcycle. If the applicant wishes to be licensed to
620 operate a motorcycle only, he or she need not take the skill or
621 road test required under subsection (3) for the operation of a
622 motor vehicle, and the department shall indicate such a
623 limitation on his or her license as a restriction. Every first-
624 time applicant for licensure to operate a motorcycle ~~who is under~~
625 ~~21 years of age~~ must provide proof of completion of a motorcycle
626 safety course, as provided for in s. 322.0255, before the
627 applicant may be licensed to operate a motorcycle.

628 Section 11. Section 316.2123, Florida Statutes, is created
629 to read:

630 316.2123 Operation of an ATV on certain roadways.— The
631 operation of an "ATV" as defined in s. 317.003 upon the public
632 roads or streets of this state is prohibited except that an "ATV"

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633 may be operated during the daytime on an un-paved roadway where
634 the posted speed limit is less than 35 miles per hour by a
635 licensed driver or by a minor under the supervision of a licensed
636 driver. The operator must provide proof of ownership pursuant to
637 chapter 317 upon request by a law enforcement officer.

638 Section 12. Paragraph (i) of subsection (2) of section
639 316.302, Florida Statutes, is amended to read:

640 316.302 Commercial motor vehicles; safety regulations;
641 transporters and shippers of hazardous materials; enforcement.--

642 (2)

643 (i) A person ~~who was a regularly employed driver of a~~
644 ~~commercial motor vehicle on July 4, 1987, and~~ whose driving
645 record shows no traffic convictions, pursuant to s. 322.61,
646 during the 2-year period immediately preceding the application
647 for the commercial driver's license, and who is otherwise
648 qualified as a driver under 49 C.F.R. part 391, and who operates
649 a commercial vehicle in intrastate commerce only, shall be exempt
650 from the requirements of 49 C.F.R. part 391, subpart E, s.
651 391.41(b)(10). However, such operators are still subject to the
652 requirements of ss. 322.12 and 322.121. As proof of eligibility
653 such driver shall have in his or her possession a physical
654 examination form dated within the past 24 months.

655 Section 13. Paragraph (b) of subsection (1) and paragraph
656 (a) of subsection (4) and paragraph (b) of subsection (9) of
657 section 320.27, Florida Statutes, are amended to read:

658 320.27 Motor vehicle dealers.--

659
660 (1) DEFINITIONS.--The following words, terms, and phrases when
661 used in this section have the meanings respectively ascribed to

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662 them in this subsection, except where the context clearly
663 indicates a different meaning:

664 (b) "Motor vehicle" means any motor vehicle of the type and
665 kind required to be registered and titled under chapter 319 and
666 this chapter, except a recreational vehicle, moped, motorcycle
667 powered by a motor with a displacement of 50 cubic centimeters or
668 less, low speed vehicle as defined in s. 320.01 or mobile home.

669 (4) LICENSE CERTIFICATE.--

670 (a) A license certificate shall be issued by the department
671 in accordance with such application when the application is
672 regular in form and in compliance with the provisions of this
673 section. The license certificate may be in the form of a document
674 or a computerized card as determined by the department. The
675 actual cost of each original, additional, or replacement
676 computerized card shall be borne by the licensee and is in
677 addition to the fee for licensure. Such license, when so issued,
678 entitles the licensee to carry on and conduct the business of a
679 motor vehicle dealer. Each license issued to a franchise motor
680 vehicle dealer expires annually on December 31 unless revoked or
681 suspended prior to that date. Each license issued to an
682 independent or wholesale dealer or auction expires annually on
683 April 30 unless revoked or suspended prior to that date. Not less
684 than 60 days prior to the license expiration date, the department
685 shall deliver or mail to each licensee the necessary renewal
686 forms. Each independent dealer who has been in business for less
687 than 5 years shall certify that the dealer principal (owner,
688 partner, officer of the corporation, or director) has completed 8
689 hours of continuing education prior to filing the renewal forms
690 with the department. Such certification shall be filed once every

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691 2 years commencing with the 2006 renewal period. The continuing
692 education shall include at least 2 hours of legal or legislative
693 issues, 1 hour of department issues, and 5 hours of relevant
694 motor vehicle industry topics. Continuing education shall be
695 provided by dealer schools licensed under paragraph (b) either in
696 a classroom setting or by correspondence. Such schools shall
697 provide certificates of completion to the department and the
698 customer which shall be filed with the license renewal form, and
699 such schools may charge a fee for providing continuing education.
700 Any licensee who does not file his or her application and fees
701 and any other requisite documents, as required by law, with the
702 department at least 30 days prior to the license expiration date
703 shall cease to engage in business as a motor vehicle dealer on
704 the license expiration date. A renewal filed with the department
705 within 45 days after the expiration date shall be accompanied by
706 a delinquent fee of \$100. Thereafter, a new application is
707 required, accompanied by the initial license fee. A license
708 certificate duly issued by the department may be modified by
709 endorsement to show a change in the name of the licensee,
710 provided, as shown by affidavit of the licensee, the majority
711 ownership interest of the licensee has not changed or the name of
712 the person appearing as franchisee on the sales and service
713 agreement has not changed. Modification of a license certificate
714 to show any name change as herein provided shall not require
715 initial licensure or reissuance of dealer tags; however, any
716 dealer obtaining a name change shall transact all business in and
717 be properly identified by that name. All documents relative to
718 licensure shall reflect the new name. In the case of a franchise
719 dealer, the name change shall be approved by the manufacturer,

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distributor, or importer. A licensee applying for a name change endorsement shall pay a fee of \$25 which fee shall apply to the change in the name of a main location and all additional locations licensed under the provisions of subsection (5). Each initial license application received by the department shall be accompanied by verification that, within the preceding 6 months, the applicant, or one or more of his or her designated employees, has attended a training and information seminar conducted by a licensed motor vehicle dealer training school. Such seminar shall include, but is not limited to, statutory dealer requirements, which requirements include required bookkeeping and recordkeeping procedures, requirements for the collection of sales and use taxes, and such other information that in the opinion of the department will promote good business practices. No seminar may exceed 8 hours in length.

(9) DENIAL, SUSPENSION, OR REVOCATION.--

(b) The department may deny, suspend, or revoke any license issued hereunder or under the provisions of s. 320.77 or s. 320.771 upon proof that a licensee has committed, with sufficient frequency so as to establish a pattern of wrongdoing on the part of a licensee, violations of one or more of the following activities:

1. Representation that a demonstrator is a new motor vehicle, or the attempt to sell or the sale of a demonstrator as a new motor vehicle without written notice to the purchaser that the vehicle is a demonstrator. For the purposes of this section, a "demonstrator," a "new motor vehicle," and a "used motor vehicle" shall be defined as under s. 320.60.

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748 2. Unjustifiable refusal to comply with a licensee's
749 responsibility under the terms of the new motor vehicle warranty
750 issued by its respective manufacturer, distributor, or importer.
751 However, if such refusal is at the direction of the manufacturer,
752 distributor, or importer, such refusal shall not be a ground
753 under this section.

754 3. Misrepresentation or false, deceptive, or misleading
755 statements with regard to the sale or financing of motor vehicles
756 which any motor vehicle dealer has, or causes to have,
757 advertised, printed, displayed, published, distributed,
758 broadcast, televised, or made in any manner with regard to the
759 sale or financing of motor vehicles.

760 4. Failure by any motor vehicle dealer to provide a
761 customer or purchaser with an odometer disclosure statement and a
762 copy of any bona fide written, executed sales contract or
763 agreement of purchase connected with the purchase of the motor
764 vehicle purchased by the customer or purchaser.

765 5. Failure of any motor vehicle dealer to comply with the
766 terms of any bona fide written, executed agreement, pursuant to
767 the sale of a motor vehicle.

768 6. Failure to apply for transfer of a title as prescribed
769 in s. 319.23(6).

770 7. Use of the dealer license identification number by any
771 person other than the licensed dealer or his or her designee.

772 8. Failure to continually meet the requirements of the
773 licensure law.

774 9. Representation to a customer or any advertisement to the
775 public representing or suggesting that a motor vehicle is a new
776 motor vehicle if such vehicle lawfully cannot be titled in the

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777 name of the customer or other member of the public by the seller
778 using a manufacturer's statement of origin as permitted in s.
779 319.23(1).

780 10. Requirement by any motor vehicle dealer that a customer
781 or purchaser accept equipment on his or her motor vehicle which
782 was not ordered by the customer or purchaser.

783 11. Requirement by any motor vehicle dealer that any
784 customer or purchaser finance a motor vehicle with a specific
785 financial institution or company.

786 12. Requirement by any motor vehicle dealer that the
787 purchaser of a motor vehicle contract with the dealer for
788 physical damage insurance.

789 13. Perpetration of a fraud upon any person as a result of
790 dealing in motor vehicles, including, without limitation, the
791 misrepresentation to any person by the licensee of the licensee's
792 relationship to any manufacturer, importer, or distributor.

793 14. Violation of any of the provisions of s. 319.35 by any
794 motor vehicle dealer.

795 15. Sale by a motor vehicle dealer of a vehicle offered in
796 trade by a customer prior to consummation of the sale, exchange,
797 or transfer of a newly acquired vehicle to the customer, unless
798 the customer provides written authorization for the sale of the
799 trade-in vehicle prior to delivery of the newly acquired vehicle.

800 16. Willful failure to comply with any administrative rule
801 adopted by the department or the provisions of s. 320.131(8).

802 17. Violation of chapter 319, this chapter, or ss. 559.901-
803 559.9221, which has to do with dealing in or repairing motor
804 vehicles or mobile homes. Additionally, in the case of used motor
805 vehicles, the willful violation of the federal law and rule in 15

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U.S.C. s. 2304, 16 C.F.R. part 455, pertaining to the consumer sales window form.

18. Failure to maintain evidence of notification to the owner or coowner of a vehicle regarding registration or titling fees owed ~~owned~~ as required in s. 320.02(17) ~~320.02(19)~~.

Section 14. Subsection (4) is added to section 320.089, Florida Statutes, to read:

320.089 Members of National Guard and active United States Armed Forces reservists; former prisoners of war; survivors of Pearl Harbor; Purple Heart medal recipients; Operation Iraqi Freedom and Operation Enduring Freedom veterans; special license plates; fee.--

(4) Each owner or lessee of an automobile or truck for private use, truck weighing not more than 7,999 pounds, or recreational vehicle as specified in s. 320.08(9)(c) or (d), which is not used for hire or commercial use, who is a resident of the state and a current or former member of the United States military who was deployed and served in Iraq during Operation Iraqi Freedom or in Afghanistan during Operation Enduring Freedom shall, upon application to the department, accompanied by proof of active membership or former active duty status during one of these operations, and upon payment of the license tax for the vehicle as provided in s. 320.08, be issued a license plate as provided by s. 320.06, upon which, in lieu of the serial numbers prescribed by s. 320.06, shall be stamped the words "Operation Iraqi Freedom" or "Operation Enduring Freedom," as appropriate, followed by the serial number of the license plate.

Section 15. Subsection (5) of section 316.515, Florida Statutes, is amended to read:

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316.515 Maximum width, height, length.--

(5) (a) IMPLEMENTS OF HUSBANDRY, AGRICULTURAL TRAILERS, SAFETY REQUIREMENTS.--Notwithstanding any other provisions of law, straight trucks, agricultural tractors, and cotton module movers, not exceeding 50 feet in length, or any combination of up to and including three implements of husbandry including the towing power unit, and any single agricultural trailer with a load thereon or any agricultural implements attached to a towing power unit not exceeding 130 inches in width, or a self-propelled agricultural implement or an agricultural tractor not exceeding 130 inches in width, is authorized for the purpose of transporting peanuts, grains, soybeans, cotton, hay, straw, or other perishable farm products from their point of production to the first point of change of custody or of long-term storage, and for the purpose of returning to such point of production, or for the purpose of moving such tractors, movers, and implements from one point of agricultural production to another, by a person engaged in the production of any such product or custom hauler, if such vehicle or combination of vehicles otherwise complies with this section. Such vehicles shall be operated in accordance with all safety requirements prescribed by law and Department of Transportation rules. The Department of Transportation may issue overlength permits for cotton module movers greater than 50 feet but not more than 55 feet in overall length.

(b) FORESTRY EQUIPMENT.--Notwithstanding any other provisions of law, equipment used exclusively for the purpose of harvesting forestry products, not exceeding 136 inches in width and which is not capable of speeds exceeding 20 miles per hour, is authorized for the purpose of transporting the equipment from one point of

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864 harvest to another point of harvest, by a person engaged in the
865 harvesting of forestry products. Such vehicles shall be operated
866 in accordance with all safety requirements prescribed by law and
867 Department of Transportation rules.

868 Section 16. Paragraph (c) of subsection (1) of section
869 319.14, Florida Statutes, is amended to read:

870 319.14 Sale of motor vehicles registered or used as
871 taxicabs, police vehicles, lease vehicles, or rebuilt vehicles
872 and nonconforming vehicles.--

873 (1)

874 (c) As used in this section:

875 1. "Police vehicle" means a motor vehicle owned or leased
876 by the state or a county or municipality, marked and outfitted as
877 a pursuit vehicle, and used in law enforcement.

878 2.a. "Short-term-lease vehicle" means a motor vehicle
879 leased without a driver and under a written agreement to one or
880 more persons from time to time for a period of less than 12
881 months.

882 b. "Long-term-lease vehicle" means a motor vehicle leased
883 without a driver and under a written agreement to one person for
884 a period of 12 months or longer.

885 c. "Lease vehicle" includes both short-term-lease vehicles
886 and long-term-lease vehicles.

887 3. "Rebuilt vehicle" means a motor vehicle or mobile home
888 built from salvage or junk, as defined in s. 319.30(1).

889 4. "Assembled from parts" means a motor vehicle or mobile
890 home assembled from parts or combined from parts of motor
891 vehicles or mobile homes, new or used. "Assembled from parts"
892 does not mean a motor vehicle defined as a "rebuilt vehicle" in

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subparagraph 3., which has been declared a total loss pursuant to s. 319.30.

5. "Kit car" means a motor vehicle assembled with a kit supplied by a manufacturer to rebuild a wrecked or outdated motor vehicle with a new body kit.

6. "Glider kit" means a vehicle assembled with a kit supplied by a manufacturer to rebuild a wrecked or outdated truck or truck tractor.

7. "Replica" means a complete new motor vehicle manufactured to look like an old vehicle.

8. "Flood vehicle" means a motor vehicle or mobile home that has been declared to be a total loss pursuant to s. 319.30(3)(a) resulting from damage caused by water.

9. "Nonconforming vehicle" means a motor vehicle which has been purchased by a manufacturer pursuant to a settlement, determination, or decision under chapter 681.

10. "Settlement" means an agreement entered into between a manufacturer and a consumer that occurs after a dispute is submitted to a program, or an informal dispute settlement procedure established by a manufacturer or is approved for arbitration before the New Motor Vehicle Arbitration Board as defined in s. 681.102.

Section 17. Subsection (2) of section 316.221, Florida Statutes, is amended to read:

316.221 Taillamps.--

(2) Either a taillamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of 50 feet to the rear. Any taillamp or taillamps,

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922 together with any separate lamp or lamps for illuminating the
923 rear registration plate, shall be so wired as to be lighted
924 whenever the headlamps or auxiliary driving lamps are lighted.
925 Dump trucks and vehicles with dump bodies are exempt from the
926 requirements of this subsection.

927 Section 18. Section 320.0706, Florida Statutes, is amended
928 to read:

929 320.0706 Display of license plates on trucks.--The owner of
930 any commercial truck of gross vehicle weight of 26,001 pounds or
931 more shall display the registration license plate on both the
932 front and rear of the truck in conformance with all the
933 requirements of s. 316.605 that do not conflict with this
934 section. The owner of a dump truck may place the rear license
935 plate on the gate no higher than 60 inches from the ground to the
936 top of the license plate to allow for better visibility. However,
937 the owner of a truck tractor shall be required to display the
938 registration license plate only on the front of such vehicle.

939 Section 19. Subsection (8) of section 322.121, Florida
940 Statutes, is amended to read:

941 322.121 Periodic reexamination of all drivers.--

942 (8) In addition to any other examination authorized by this
943 section, an applicant for a renewal of an endorsement issued
944 under s. 322.57(1)(a), (b), (c), (d), ~~or~~ (e), or (f) may be
945 required to complete successfully an examination of his or her
946 knowledge regarding state and federal rules, regulations, and
947 laws, governing the type of vehicle which he or she is seeking an
948 endorsement to operate.

949 Section 20. Except as otherwise provided, this act shall
950 take effect October 1, 2006.